

EXHIBIT K (CONT.)

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1 Xeno?

2 A. I think I already answered I don't recall.

3 Q. Okay. Do you have any way to place that in
4 time?

5 A. No.

6 Q. Do you know whether it was in 1999?

7 A. I don't.

8 Q. Have you ever met Darren Davis?

9 A. Yes.

10 Q. When did you meet Darren Davis for the first
11 time?

12 A. I can't recall when the first time was.

13 Q. Is there any way for you to fix an approximate
14 date?

15 A. No, not that I can presently think of.

16 Q. Okay. Was it in 1999?

17 A. I don't recall specifically, but again I think
18 it's likely.

19 Q. When you first met with Mr. Metzger in the
20 first half of 1999, were you given an assignment?

21 MS. THAYER: You may answer that broadly without
22 revealing any specific client communications.

23 BY THE WITNESS:

24 A. Is the question did he give me an

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1 assignment --

2 BY MS. DURIE:

3 Q. Yes.

4 A. -- on the occasion of me first meeting him?

5 Q. At the occasion of or in conjunction with your
6 first meeting with him.

7 A. I guess generally you could say yes.

8 Q. What was the general nature of that
9 assignment?

10 A. To investigate patent issues concerning at
11 least one part of GoTo.com's business.

12 Q. Was the assignment restricted to a particular
13 aspect of GoTo.com's business?

14 A. I don't quite know how to answer it. It
15 was -- it was sort of open-ended.

16 Q. Okay. So, it was more in the nature of here's
17 our business, go get patent protection where you can; not
18 please investigate patent protection for this particular
19 piece of our business model?

20 A. I would say it's somewhere in between.

21 Q. Okay. Were there any aspects of GoTo.com's
22 business where you were told not to undertake any
23 investigation as to patentability?

24 MS. THAYER: Can I have that read back?

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1 (Whereupon, the record was read
2 by the reporter as requested.)

3 MS. THAYER: If you can answer that at a high level
4 without revealing specific client communications, go
5 ahead and answer. Otherwise I would instruct you not to
6 answer.

7 BY THE WITNESS:

8 A. Not that I recall.

9 BY MS. DURIE:

10 Q. Was anyone present for your initial meeting
11 with Joshua Metzger other than yourself and Mr. Metzger?

12 A. I think Initially -- I don't recall
13 specifically.

14 Q. Do you have a general recollection?

15 A. I believe what occurred is I went in, talked
16 to the receptionist, then saw Mr. Metzger, probably
17 alone. So, initially it would have been alone.

18 Q. Okay. Did anyone else from Brinks, Hofer
19 accompany you on this trip?

20 A. I don't believe so.

21 Q. Did anyone else from Brinks, Hofer accompany
22 you on any trips to Pasadena to GoTo in 1999?

23 A. I don't recall that occurring in 1999.

24 Q. Okay. When is the first time, if there is a

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1 time, that you can recall another -- someone else from
2 Brinks, Hofer accompanying you on a trip to Pasadena to
3 meet with individuals from GoTo?

4 A. To -- I'm sorry. I didn't hear --

5 Q. To meet with individuals from GoTo.

6 A. Your question is when is the first time that
7 occurred?

8 Q. Mm-hmm.

9 A. I can't -- I can't recall or identify the
10 first time.

11 Q. Is there some instance of such a trip that you
12 can recall?

13 A. Yes.

14 Q. Who was present?

15 A. I remember one trip where John Rauch and
16 myself went to Overture.

17 Q. What was the purpose of that trip?

18 A. To meet with technical personnel at Overture.

19 Q. Okay. Who were the technical personnel at
20 Overture with whom you met?

21 A. There were a large number of them, most of
22 whom I had not known. I cannot recall their names. Let
23 me see if I can recall any of them.

24 Q. If it would help to refer, there's a list of

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1 inventors on the first page of the patent, if that will
2 help jog your memory.

3 A. Well, this visit, it did not have to do with
4 this patent. It was some -- something else. I can't
5 recall the name of a particular person. I'm tempted to
6 say Tom Soulanille may have been there at least in part,
7 but I can't be sure.

8 Q. And what was the approximate date of this trip
9 with Mr. Rauch to Pasadena?

10 A. I would say it was 2002 or 2003.

11 Q. Can you recall any visits that you took to
12 Pasadena between the first one when you went with Mr.
13 Metzger and the visit that you've just described with Mr.
14 Rauch?

15 A. Yes.

16 Q. How many?

17 A. I don't know the number.

18 Q. Can you give me a ballpark?

19 A. Perhaps half a dozen, maybe more.

20 Q. Okay. Did anyone else from Brinks, Hofer
21 accompany you on any of those visits?

22 A. Some of them, at least.

23 Q. Is it possible for you to separate out the
24 trips chronologically such that I could ask you about

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1 each one, or are they all blurred together in your mind?

2 A. Yes and no.

3 Q. Okay.

4 A. Some blur; some peek out more than others.

5 Q. Fair enough. Let's take the second trip to
6 Pasadena.

7 So, the first one we've discussed, that
8 involved meeting with Joshua Metzger?

9 A. Mm-hmm.

10 Q. And no one else from Overture was present?

11 A. At least for the first few minutes.

12 Q. Fair enough. And there may have been others
13 present thereafter, but you don't recall their names, is
14 that right?

15 A. I can't recall the names of anybody else who
16 met with me while I was with Mr. Metzger.

17 Q. Do you remember the names of anyone that you
18 met with after Mr. Metzger was no longer present?

19 A. I believe I met with Jeffrey Brewer.

20 Q. How long did your meeting with Mr. Brewer
21 last?

22 A. I don't recall, but it was brief.

23 Q. What was the purpose of that meeting?

24 A. To discuss -- for him to provide me with

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1 information about the background of the business of
2 GoTo.com.

3 Q. Okay. Is there anyone else that you can
4 recall meeting at that first meeting in Pasadena other
5 than Mr. Metzger and Mr. Brewer?

6 A. At this point in time that meeting is more or
7 less a blur. I believe it's highly likely I met with
8 more people than just those two over the course of my
9 visit there. I can't recall the names or picture that at
10 this moment.

11 Q. What can you tell me about the next meeting
12 that you had with anyone from Overture?

13 MS. THAYER: Are you talking about trips to
14 Overture?

15 BY MS. DURIE:

16 Q. Well, or trips -- either trips to Overture or
17 trips where Overture people came to meet you in Chicago.

18 A. At this point I cannot identify that next
19 meeting.

20 Q. Can you identify a group of subsequent
21 meetings?

22 A. No, I can't lump them into a group. I've had
23 meetings with Overture personnel for many different
24 reasons over the course of the last several years. I

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1 A. I'm sorry?

2 Q. Did Overture file any motions for summary
3 judgment in the Rony case?

4 A. I don't think we did.

5 Q. Have you in your career as a litigator ever
6 filed motions for summary judgment?

7 A. Yes, I have.

8 Q. In some instances have those motions been
9 supported by declarations?

10 A. It's likely the case.

11 Q. Focusing just on conversations that you had
12 with individuals at Overture that related in some way to
13 the '361 patent in suit -- actually, let me strike that
14 and back up.

15 If I refer to the patent in suit as the '361
16 patent, will you understand what I'm talking about?

17 A. Sure.

18 Q. Focusing on conversations that you may have
19 had with individuals at Overture relating to the '361
20 patent, approximately how many such conversations did you
21 have in the, say, 1999 time frame?

22 A. Conversations?

23 Q. Yes.

24 MS. THAYER: So, this would include telephone?